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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,792	11/18/2005	David Martini	N2321-MJP	1655
23456 7590 12/08/2008 WADDEY & PATTERSON, P.C. 1600 DIVISION STREET, SUITE 500 NASHVILLE, TN 37203				
EXAMINER MC'CARRY JR, ROBERT J				
ART UNIT 3617		PAPER NUMBER		
NOTIFICATION DATE 12/08/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/534,792

Applicant(s)

MARTINI ET AL.

Examiner

ROBERT J. MCCARRY JR

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 25-31, 33-46 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29, 30 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 recites "an input signal associated with an operating angular velocity of the turbine." It is unclear as to what the operating angular velocity of the turbine is and how it relates to operating an air conditioner or other auxiliary equipment.

Claim 30 recites that a "control circuit is operable to control the opening and closing of the fuel regulation valve to adjust the operating angular frequency." It is unclear if the angular frequency is different from the previously mentioned angular velocity or if they are one in the same. This leaves the claim vague and indefinite.

Claim 35 recites that the device is further comprised of "slidable flanges" and "sliding guides". It is unclear to the Examiner as to what the function of the flanges and guides are and how they relate to the device and the operating characteristics.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-31, 33-36 and 39-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Biess et al (US 6,928,972).

Biess et al discloses an auxiliary power controller for a locomotive. The auxiliary power controller provides power to auxiliary components such as heat and air conditioning to a locomotive when the primary engine is shut down. The system is comprised of a secondary engine 46 having an electric generator 48 mechanically coupled to the secondary engine, the generator is also fitted with an inverter to convert the engine power to an electrical output signal. The secondary engine draws fuel from the locomotive fuel tank to power the generator as well as maintain a warm temperature to the primary diesel engine of the locomotive. The secondary engine and generator will keep the primary engine warm by using two pumps 62, 65 to circulate and condition coolant and engine oil through the primary engine. The generator system will provide electrical power to the cabin area of the locomotive body so as to provide lighting, air conditioning or heating to the crew on the locomotive as well as run other low power auxiliary electrical devices.

Claim 46 is rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al (US 2,541,904).

Alexander et al discloses a railroad car 10 having a passenger compartment 12. Each car 10 is outfitted with an air conditioning system 14. The air conditioning system 14 is operated by an on board electric generator 66 which is powered by a conventional

engine 62. This engine 62 and generator are independent of the locomotive engine and only operate the air conditioner on the select car.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biess et al (US 6,928,972).

Biess et al discloses the power system as described above comprised of a secondary engine and electric generator powered by fuel held in a fuel tank on the locomotive. However, Biess et al does not specifically show the fuel tank held in place by a bracket nor does Biess et al show the fuel tank outfitted with a fuel pump. It would have been obvious to one of ordinary skill in the art to have come to the expected result that a fuel tank, designed for carrying flammable liquid on a vehicle would be anchored by a bracket or other fastener so as a safety standard on a moving vehicle.

Regarding the fuel pump, while not expressly shown in Biess et al, it would have been obvious to one of ordinary skill in the art to have come to the expected result that a fuel pump is an inherent component on a fuel tank of any size or type of vehicle that is powered by a diesel or gasoline engine.

Allowable Subject Matter

Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./
Examiner, Art Unit 3617

RJM
December 1, 2008